

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

UNITED STATES OF AMERICA,  Plaintiff,   vs.  CLYDE CESSPOOCH,  Defendant.	MEMORANDUM DECISION AND ORDER ON COMPETENCY AND EXCLUDING TIME   Case No. 2:05-CR-214 TS
--	---

This matter came before the Court on September 4, 2007, for a competency hearing. Defendant appeared with counsel and was afforded an opportunity to testify and to present witnesses and evidence. Defendant stipulated to competency. The Court has considered the entire record, including the June 27, 2007 Report, and its own observations of the Defendant's demeanor and answers to the Court's questions.

In *Dusky v. United States*, the Supreme Court set out the standard for determining a defendant's competency to stand trial as whether the defendant has "sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding--and

whether he has a rational as well as factual understanding of the proceedings against him."<sup>1</sup>


The Court finds that Defendant has a sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding--and that he has a rational as well as factual understanding of the proceedings against him. The Court also finds that he is able to assist in his defense. The record clearly shows that Defendant is competent to stand trial at this time. It is therefore

ORDERED that Defendant is competent to stand trial. It is further

ORDERED that all time involved in competency evaluation and treatment is excluded in computing Speedy Trial Act time pursuant to 18 U.S.C. § 3161(h)(1)(A).

DATED September 6, 2007.

BY THE COURT:

  
\_\_\_\_\_  
TED STEWART  
United States District Judge

---

<sup>1</sup>*Dusky v. U.S.*, 362 U.S. 402, 402 (1960).